

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PERCY SHAW and GENEVA DAVIS, as)	
Co-Personal Representatives of the)	
ESTATE OF PORSHA SHAW, deceased,)	
et al.,)	Case No. 1:08-cv-401
)	
Plaintiffs,)	Honorable Janet T. Neff
)	
v.)	
)	
LONDON CARRIERS, INC., et al.,)	
)	
Defendants.)	
)	

**ORDER DENYING MOTION TO STRIKE
AND IMPOSING SANCTIONS**

Defendant First Choice Carriers has moved to strike plaintiffs' experts on the ground that plaintiffs' identification of testifying experts failed to comply with the requirements of the court's case management order. At a hearing conducted on February 19, 2009, the court concluded that plaintiffs' identification of testifying experts did not comply with the court's case management order and that plaintiffs' counsel unreasonably refused to comply with the court's order even after being requested to do so by counsel for First Choice Carriers. The court further concluded that a preclusion order under Rule 37(c)(1) was not justified, because the error can be rendered harmless to defendants by amendment of the case management order. Finally, the court determined that imposition of reasonable expenses and fees under Fed. R. Civ. P. 37(c)(1)(A) is justified by the conduct of plaintiffs' counsel. Accordingly:

IT IS ORDERED that the motion of defendant First Choice Carriers to strike all of plaintiffs' experts (docket # 38) be and hereby is DENIED.

IT IS FURTHER ORDERED that sanctions in the amount of \$1,000.00 be and hereby are imposed against plaintiffs' counsel, Thomas M. Lizza, personally, payable to defendant First Choice Carriers within fourteen days hereof.

Plaintiffs are warned that any future violation of obligations under the discovery rules or the orders of this court may cause imposition of any of the sanctions set forth in Rule 37(b).

DONE AND ORDERED this 19th day of February, 2009.

/s/ Joseph G. Scoville
United States Magistrate Judge